

Service Date: April 17, 2003

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF)	UTILITY DIVISION
Tariff Transmittal QLDC02-01)	
by Qwest LD Corp. d/b/a Qwest Long Distance)	DOCKET NO. D2002.12.153
Initial Tariff and Price List for Qwest Long)	
Distance)	ORDER NO. 6479b

PROTECTIVE ORDER

On March 4, 2003, Qwest LD Corp. ("Qwest") filed a Motion for Protective Order to govern certain information expected to be filed in the above-entitled proceeding. By Notice of Commission Action dated March 13, 2003, the Montana Public Service Commission (PSC) denied Qwest's request for a protective order, and Qwest was given ten days to re-file the protective order in compliance with commission rules and policy. On March 24, 2003, Qwest re-filed the motion for a protective order. The motion was signed by David McGann, who is not licensed to practice law in Montana and who had not filed a pro hac vice application with the State Bar of Montana to appear in this docket. On April 14, 2003, Qwest resubmitted the motion for a protective order under the signature of John Alke, a Montana attorney who filed a Notice of Appearance in this docket on April 14, 2003.

On April 15, 2003, at a regularly scheduled work session, the PSC acted on the motion for a protective order. For purposes of this order, the numbers used in the motion filed on March 24, 2003 are used in the following descriptions.¹

Qwest requests protection of information relating to:

- 1) MCC-5(a) and 6(a), 7, and PSC-0020 and 0021: the average minutes of usage for Qwest's unlimited toll plans, Preferred and L.D. Advantage Plans and the number of customers and average usage per customer on each rate plan listed in PSC-0020.

¹ In the March 24, 2003, filing, Qwest numbers its requests as 1, 2, 4, 4, and 5. In the motion filed on April 14, 2003, which is identical to the March 24, 2003 motion except for the numbering sequence, Qwest uses the following numbers to identify its requests: 1, 2, 4, 5, 6.

- 2) MCC- 8, MTA 1, 5(b) and 6(b): confidential internal cost study identifying average per minute cost for Qwest's long distance and evidence that prices exceed costs.
- 4)² PSC-012: Qwest's contract with WorldCom.
- 4) PSC-14(a): average current interstate switched traffic sensitive access rate.
- 5) PSC-20: various estimates relating to Qwest's anticipated business in Montana.

Qwest argues that the identified information is trade secret in accordance with § 30-14-402(4), MCA.

The PSC determines that the identified information set forth in 1, 2, the second labeled 4 (average current interstate switched traffic sensitive access rate), and 5 above could be confidential and subject to protection from public disclosure pursuant to § 69-3-105(2), MCA. Therefore, the PSC grants Qwest's request with respect to the information set forth in 1, 2, the second labeled 4, and 5, and hereby orders that information submitted in accordance with this Order be treated as "confidential information" under the terms of this Order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030.

The PSC determines that Qwest has failed to demonstrate that the identified information set forth in the first labeled 4 above (the WorldCom contract) is trade secret within the meaning of § 30-14-402(4), MCA and ARM 38.2.5001 *et seq.* Qwest, in this second attempt to obtain a protective order with respect to the WorldCom contract, has not set forth any additional specific facts as to why the contract is a trade secret than those facts contained in the initial motion, which was denied by the PSC.

IT IS THEREFORE ORDERED that Qwest's motion for a protective order is granted with respect to 1, 2, the first labeled 4 above and 5.

IT IS FURTHER ORDERED that Qwest's motion for a protective order is denied with respect to the WorldCom contract, identified in the second labeled 4 in its March 24, 2003 motion, is denied. Qwest shall produce the information contained in the second labeled 4 (the WorldCom contract identified in data request PSC-012) within seven days of the service date of this Order.

DONE AND DATED this 15th day of April 2003, by a vote of 5 to 0.

² Misabeled 4 on March 24, 2003 motion.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Rhonda J. Simmons
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)
ARM 38.2.5012

Docket No. D2002.12.153, Order No. 6479b
Order Action Date: April 15, 2003

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented